

ORDER NO. 807

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Tony L. Hammond; and
Nanci E. Langley

Mail Classification Schedule Change
(Lightweight Commercial Parcels)

Docket No. MC2011-28

NOTICE AND ORDER CONCERNING CLASSIFICATION CHANGES

(Issued August 16, 2011)

On August 12, 2011, the Postal Service filed a notice with the Commission pursuant to 39 CFR 3020.90 *et seq.* concerning two classification changes related to Lightweight Commercial Parcels.¹ First, the Postal Service proposes to change the name of the competitive product “Lightweight Commercial Parcels” to “Commercial First-Class Package Service.” The Postal Service explains that it seeks to make this change “[f]or business reasons related to the marketing of the Postal Service’s competitive products....” *Id.* at 1. Second, the Postal Service proposes to narrow Commercial Lightweight Parcels’ letter prohibition to cover only the Commercial Base portion of the product, effectively allowing the Commercial Plus portion to contain letters that would be subject to the Private Express Statutes. The Postal Service believes that

¹ Notice of Minor Classification Change, August 12, 2011 (Notice).

the Commercial Plus portion of the product was never subject to the postal monopoly “given that its prices were (and are) more than six times the price of a one-ounce single-piece First-Class Mail letter....” *Id.* at 2.

The Postal Service’s Notice includes proposed changes to the Mail Classification Schedule language.

Pursuant to 39 CFR 3020.92, the Commission provides notice of the Postal Service’s filing and affords interested persons an opportunity to express views and offer comments on whether the proposed classification change is consistent with 39 U.S.C. 3642. Comments are due on August 22, 2011.

The Commission appoints James Waclawski to serve as Public Representative in this docket.

The questions below seek additional information related to the proposed changes concerning Lightweight Commercial Parcels. Responses shall be provided by the Postal Service no later than August 19, 2011. Interested persons may wish to respond to these questions, as appropriate, in their comments.

1. Under Commission regulation 39 CFR 3020.91, the Postal Service must submit “corrections to product descriptions in the Mail Classification Schedule...no later than 15 days prior to the effective date of the proposed change.” Please provide the effective dates of the proposed changes outlined in the Notice.
2. The Notice states that the Postal Service is seeking to change the name of the “Lightweight Commercial Parcels” competitive product to “Commercial First-Class Package Service” for “business reasons related to the marketing of the Postal Service’s competitive products....” *Id.* at 1. Please describe those business reasons and their relationship, if any, to First-Class Mail or other market dominant products.

3. If the proposed name change is approved, the competitive product “Lightweight Commercial Parcels” would be using terminology traditionally reserved for market dominant products (e.g., First-Class).
 - a. Please explain whether the use of market dominant terminology for competitive products is appropriate under 39 U.S.C. 3642 and market dominant/competitive product regime set up by the Postal Accountability and Enhancement Act (PAEA).
 - b. Please explain how the Postal Service intends to ensure that there is no confusion among consumers about whether “Commercial First-Class Package Service” is accorded the same treatment as the market dominant products within the First-Class Mail class.
 - c. Please explain whether there are any concerns that customers might be confused that “Commercial First-Class Package Service” will contain some of the defining characteristics of First-Class Mail, including, for example, being sealed against inspection. Please explain what action the Postal Service is planning on taking to eliminate such potential confusion.
 - d. Please explain whether it is appropriate under the PAEA for competitive products to use resources of market dominant products (including trademarks and copyrights) for the benefit of competitive products. If so, how are such resource uses to be accounted for?
4. The Postal Service’s proposal seeks to eliminate the letter prohibition from Commercial Plus “Lightweight Commercial Parcels.” Please discuss how this change conforms with 39 U.S.C. 3642 and the Commission’s implementing regulations, including 39 U.S.C. 3642(b)(1) and (3).

5. Please refer to the attachment to the Notice, Mail Classification Changes, Part B.2125.1.c., which is proposed to read as follows: “Commercial First-Class Package Service Commercial Base mail is not sealed against postal inspection. Mailing of matter as such constitutes consent by the mailer to postal inspection of the contents, regardless of the physical closure.” This statement does not discuss the Commercial Plus portion of the proposed “Commercial First Class-Package Service.” Please discuss whether Commercial Plus is sealed against inspection and, if necessary, provide additional proposed clarifying Mail Classification Schedule language for the “Commercial First-Class Package Service.”

It is ordered:

1. Docket No. MC2011-28 is established to consider the Postal Service’s Notice referred to in the body of this Notice and Order.
2. The Commission appoints James Waclawski as Public Representative to represent the interests of the general public in this proceeding.
3. Comments by interested persons in this proceeding are due no later than August 22, 2011.
4. The Postal Service’s responses to the additional information referenced in this Notice and Order are due August 19, 2011.

Shoshana M. Grove
Secretary